

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

AMOS JUNIOR SCOTT,

Petitioner,

No. CIV S-08-0238 GEB GGH P

VS.

ATTORNEY GENERAL, et al.,

Respondents.

ORDER

On January 31, 2008, petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On April 2, 2008, the court ordered respondent to file a response. On April 25, 2008, respondent filed a response stating that this action is properly construed as a motion to vacate, set aside or correct a federal sentence pursuant to 28 U.S.C. § 2255. After reviewing the record, the court finds that respondent is correct.

Petitioner alleges that an expired California conviction was improperly used to enhance his federal sentence. Attached to the petition as an exhibit is a presentence investigation report from the United States District Court for the Western District of North Carolina. This report includes petitioner's at-issue state court conviction. Because petitioner is challenging the validity of his federal sentence, the court construes this action as having been brought pursuant to

1 28 U.S.C. § 2255.

2 A motion pursuant to § 2255 is generally properly brought in the sentencing court.
3 Stephens v. Herrera, 464 F.3d 895, 897 (9th Cir. 2006). The court finds that the United States
4 District Court for the Western District of North Carolina has jurisdiction over this matter.
5 Therefore, in the interest of justice, this action will be transferred under 28 U.S.C. § 1631, to the
6 proper district.

7 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the
8 United States District Court for the Western District of North Carolina.

9 DATED: 07/23/08

10 /s/ Gregory G. Hollows

11 UNITED STATES MAGISTRATE JUDGE

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